



NOTICE OF EFFECTIVE DATE OF REGULATION CHANGE

**California Code of Regulations
Title 2. Administration
Division 1. Administrative Personnel
Chapter 1. State Personnel Board**

DATE: March 18, 2005

TO: ALL STATE AGENCIES, EMPLOYEE ORGANIZATIONS, AND
MEMBERS OF THE GOVERNOR'S CABINET

SUBJECT: Title 2, California Code of Regulations § 211 – Dismissed State
Employees to Take Examinations

This memorandum is to advise you that the proposed amendment to Title 2, California Code of Regulations (2CCR) § 211 as described in the State Personnel Board's (SPB) Notice of Modification of Proposed Regulations dated November 12, 2004, became effective on February 24, 2005. The final text of the regulation is attached and will be published in the CCR, Title 2, Division 1, § 211.

Rule 211, in its final form, reflects SPB's response to public comments regarding a previous proposal to amend § 211 that was heard before the five-member State Personnel Board on November 3, 2004.

The rule makes specific the requirements of Government Code § 18941. It allows a dismissed employee who meets standards as described in the rule, to request SPB approval to apply for civil service examinations by submitting such requests in writing, clearly identifying the facts, circumstances, and reasons to support his/her request to take the examination(s). The rule specifies that each request is reviewed on a case-by-case basis and outlines factors that are taken into consideration, including input from the department that dismissed the employee. It also allows the Executive Officer to grant a blanket waiver for any examination for which the dismissed employee meets the minimum qualifications. The rule provides that the Executive Officer's decision will be issued within specific timeframes, with a provision for an extension.

The attached informational pamphlet--*Examination Eligibility for Persons who were Dismissed from State Service*--was developed to explain the Rule § 211 review process. Included is basic information, the review process, review criteria and

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how the process works. The pamphlet is also accessible through SPB's Website at <http://www.spb.ca.gov>.

CONTACT PERSON:

Inquiries regarding this rule may be directed to Daphne Baldwin at SPB, P.O. Box 944201, Sacramento, California 94244-2010 or (916) 653-0818, TDD (916) 653-1498.

Laura Aguilera
Assistant Executive Officer

Attachments: Final Text of 2CCR § 211 Regulation
Pamphlet—Examination Eligibility for Persons who were Dismissed
from State Service

Title 2. ADMINISTRATION
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1. General Civil Service Regulations
Article 8. Examinations

§ 211. Eligibility.

If an employee is dismissed from state employment by adverse action or as a result of disciplinary proceedings, that dismissed employee shall not thereafter be permitted to take any state civil service examination or be certified from an eligible list to any position in the state service without the prior consent of the Executive Officer.

Dismissed employees' requests to participate in state civil service examinations shall be subject to the following:

- (a) Requests must be filed with the Board at least five (5) working days prior to the final filing date of the examination(s) for which the dismissed employee wishes to apply.
- (b) All requests shall be in writing and accompanied by a completed state examination application.
- (c) Requests shall clearly identify the facts, circumstances, and reasons that support the dismissed employee's request to take the examination(s). The request, at a minimum, shall include the date of the dismissal, the reasons for the dismissal, and the reasons why the dismissed employee believes that he or she should be permitted to take the examination(s). The dismissed employee may also submit substantiation of corrected behavior, letters of recommendation, employment evaluations, and other materials and/or declarations to support the request.
- (d) Requests will be reviewed on a case-by-case basis, taking into consideration the following factors:
 - 1. The type of examination/classification for which the dismissed employee wishes to apply.
 - 2. The circumstances/causes surrounding the dismissal and any restrictions that impact the request.

3. Any pattern of successful employment after the dismissal.
4. Confirmation/assurance of corrected and/or sustained improved behavior.
5. Acceptance of responsibility for past wrongful actions.
6. Demonstration of readiness to re-enter state service.
7. Information, in writing, from the dismissing department responding to the dismissed employee's request to participate in the examination(s).
8. Any other factors deemed relevant to the request, including those factors set forth in Government Code Section 18935.

No later than 30 days after receipt of the request, the Executive Officer shall determine whether to grant the dismissed employee permission to participate in the examination(s). If the Executive Officer determines that additional time is necessary in order to obtain relevant information he or she may extend the time for determination and notify the dismissed employee of the extension and the reasons therefore. If the Executive Officer determines that the information submitted by the dismissed employee so warrants, the Executive Officer may grant the dismissed employee a blanket waiver to apply for any examination for which the dismissed employee meets the minimum qualifications. The Executive Officer shall set forth his or her decision in writing. A dismissed employee may appeal to the Board from the Executive Officer's decision within 30 days after receipt of that decision.

Note: Authority cited: Sections 18211, 18213 and 18701, Government Code.
Reference: Sections 18935 and 18941, Government Code.

Introduction

This pamphlet is intended to provide an individual who has been dismissed from State employment with basic information about seeking permission to return to State civil service.

Former State employees who were dismissed from State service must obtain permission to re-enter State employment pursuant to the provisions of Title 2, California Code of Regulations § 211. They do not have permissive reinstatement eligibility.

A dismissed employee must first seek prior approval from the State Personnel Board (SPB) to participate in any examination(s) that he/she may wish to take. If a dismissed employee does not obtain prior SPB approval before taking an examination and returning to State service, that employee's new appointment may be voided as illegal.

Requesting SPB Approval

To request approval to take an exam, an individual, who has been dismissed, is required to submit to SPB a written request accompanied by a completed State examination application. The request and State examination application must be received by SPB at least 5 working days prior to the final filing date of the examination(s) in which he/she wishes to participate.

The request should include information clearly identifying the facts, circumstances, and reasons that support the individual's request to take the examination(s), including, but not limited to:

- Date of the dismissal
- Reasons for the dismissal
- Reasons why he/she should be permitted to take the examination(s)
- Substantiation of corrected behavior, letters of recommendation, employment performance evaluations, and other materials and/or declarations to support the request

If the dismissal is currently pending an SPB appeal hearing, include this information in the letter.

SPB's Review

When a request is received, SPB conducts a review, on a case-by-case basis, taking into consideration the following:

- The type of examination/classification for which the individual wishes to apply
- The circumstances/causes surrounding the dismissal and any restrictions that impact the request
- Any pattern of successful employment after the dismissal
- Confirmation/assurance of corrected and/or sustained improved behavior

- Acceptance of responsibility for past wrongful actions
- Demonstration of readiness to re-enter State service
- Information, in writing, from the dismissing department responding to the dismissed employee's request to participate in the examination(s)
- Any other factors deemed relevant to the request, including those factors set forth in Government Code § 18935

SPB will send a letter of determination to the individual no later than 30 days after receipt of the request. However, if it is determined that additional time is necessary, SPB will notify the individual. In appropriate circumstances, SPB may grant a dismissed employee a blanket waiver that would allow that individual to apply for any examination for which he/she meets the minimum qualifications without seeking further approvals from SPB.

Applying for an Examination(s)

If SPB approved the dismissed employee's request, the dismissed employee should attach a copy of SPB's authorization letter to the State application for any examination(s) for which he/she is applying. This will notify the testing department that the dismissed employee is authorized to

participate in the examination. If the dismissed employee is successful in the open examination and reachable on the employment list, he or she will be eligible to be appointed from the list.

Appeal Rights

If the request to re-enter State service is denied, the dismissed employee may appeal the decision through SPB's appeals process. Appeals must be filed, in writing, within 30 days of receipt of the Executive Officer's denial to:

**State Personnel Board
Appeals Division
P. O. Box 944201
Sacramento, CA 94244-2010**

Questions

Requests for approval and questions related to this pamphlet may be directed to:

**State Personnel Board
Investigations Unit, MS #37
P.O. Box 944201
Sacramento, CA 94244-2010**



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About**

**Examination
Eligibility
for Persons
who were
Dismissed from
State Service**